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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 06.05.2024

Iliyas @ Haji Ilyas Khan

...Petitioner.

Versus

Sahil @ Sohini minor through his father

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Nafees Ahmad Khan, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 12.04.2024 (Annexure P3), passed by learned Presiding Officer, MACT, Nuh, vide which application filed by respondent No.1 for taking up the Execution Petition No.155-2017 decided on 18.07.2017 and issuing direction to the Collector, Nuh and Tehsildar Ferozepur Jhirka to recover the amount of compensation granted to him in MACP-348-2015 was allowed.

2. The brief facts relevant for adjudication of the present revision petition are that respondent No.1 had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.30,00,000/- alongwith interest @ 18% per annum, from the date of filing the petition, till the realization of awarded amount, on account of injuries

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sustained by minor respondent No.1. The aforesaid claim petition was allowed by the Tribunal, Mewat, vide award dated 11.11.2016 and awarded Rs.14,57,744/- as compensation. Against the said award, the petitioner filed FAO-1095 of 2017 before this Court, which was dismissed vide order dated 07.09.2017. Thereafter, respondent No.1 filed Execution Petition vide EXE-155/2017 dated 07.03.2017 before the Executing Court, Mewat, in which notice was issued to the petitioner for 28.03.2017, upon which, the petitioner and his son appeared through counsel and sought time to file objections and the matter was adjourned to 25.04.2017. On 25.04.2017, the petitioner and his son or their counsel did not appear before the Court, so they were proceeded against exparte and the matter was adjourned for 23.05.2017 for filing the list of the properties of the petitioner. On 18.07.2017, the execution petition was dismissed as withdrawn by the Executing Court when certificate of recovery under Section 174 of M.V. Act, 1988 was ordered to be issued to Collector, Mewat for effecting the recovery of awarded amount i.e. Rs.14,57,744/- with interest @ 7.5% per annum from the date of filing of the petition i.e. 23.11.2015 till depositing of the amount. Thereafter on 24.03.2023, respondent No.1 filed an application for taking up the execution petition No.155-2017, decided on 18.07.2017 for issuing the direction to the Collector Nuh, Tehsildar Ferozepur Jhirka to recover the amount of compensation granted to him in MACP-348-2015. On 05.03.2024, the petitioner through his counsel appeared before the Tribunal and filed an application for setting aside exparte order dated 25.04.2017 in the main execution petition, which was

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disposed of on 18.07.2017. It was ordered that the petitioner may join the proceedings of the application. On 02.04.2024, Jitender Patwari, filed report and stated that the petitioner came to Tehsil Complex on 26.03.2024 and presented cheque No.287193 of Rs.8,00,000/- drawn on State Bank of India, Ferozepur Jhirka, issued from the account of Zaffar Trading Company and the name of payee was left blank. On the same day, the petitioner filed objection petition. MACT, Nuh vide order dated 12.04.2024 allowed the application of the respondent and directed the Tehsildar to recover the amount of compensation of Rs.14,57,744/- alongwith interest @ 7.5 % per annum from the date of filing of claim petition i.e. 23.11.2015 till date of award i.e. 11.11.2016 and @ 9% per annum, with yearly rests, from the date of award i.e. 11.11.2016 till realization from the petitioner by selling the land of the petitioner, which had already been attached. Hence, the petitioner has knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the revision petitioner has contended that the claimant was required to supply his bank account number within 30 days to the petitioner or his counsel and the JDs were directed to deposit the amount of compensation in the account of claimant within two months from the date of receipt of the account number. The payment could not be deposited as no account number was supplied to the petitioner by the claimant/ respondent No.1 in compliance of award dated 11.11.2016. He has further contended that while passing the impugned order, the Tribunal has wrongly ignored the important fact that the bank account of respondent

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No.1 (being minor) was opened on 01.02.2017 in the above mentioned bank having bank account No.78091500001670, Mode of Operation: Guardian, whereas award was passed on 11.11.2016. He has contended that as such the alleged account was got opened much after the date of passing of the award. He has argued that the petitioner has never refused to pay the compensation amount to the respondent and is still ready to pay the compensation amount but the order granting future interest as awarded in the impugned order is wrong and is liable to be set aside.

4. I have heard learned counsel for the petitioner and has gone through the relevant record.

5. It is an admitted fact that the DH award holder was granted compensation of Rs.14,57,744/- in MACP-348-2015 which had been decided on 11.11.2016 and it was held that the claimant was entitled to interest @ 7.5 % per annum from the date of filing of claim petition till realization. The petitioner was directed to supply his bank account number to the respondents or their counsel within a period of 30 days and the respondents were directed to deposit the amount of compensation in the account of the petitioner and to send the intimation to the petitioner. It was further held that if the petitioner failed to supply his bank account number or their counsel within 30 days, the petitioner would not be entitled to future interest i.e. from the expiry of the period of 30 days from the date of award till supplying of the bank account number. It was also held that the respondent would deposit the amount of compensation in the account of the petitioner/ claimant within two months from the date of receipt of bank

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account number of the petitioner, failing which he would be liable to pay interest on the amount of compensation @ 9% per annum with yearly rests from the date of award till realization.

6. It has been specifically mentioned in the impugned order by the Executing Court that the claimant filed the execution petition on 07.03.2017, alleging that the respondents had not deposited the amount of compensation in the account of the petitioner in compliance of award dated 11.11.2016. Notice of the said execution petition was issued to the respondents for 28.03.2017. Then the counsel appeared on behalf of both the JDs and filed his Power of Attorney. It has also been specifically mentioned that the claimant had also filed the copies of bank passbook, legal notice sent to Shri Tahir Hussain Ruparya, Advocate and postal receipts alongwith the execution petition. As per the postal receipts, legal notice was sent on 07.02.2017 to both the respondents as well as their counsel and it was clearly mentioned in the legal notice that photocopy of bank passbook of Sarva Haryana Gramin Bank, Salamba, in the name of the petitioner had been attached with the notice. It has also been specified in the impugned order that as per report made by the process server on the notices, the judgment debtor No.2 personally received the summons on his behalf as well as on behalf of his son/ judgment debtor No.1. It has been rightly held by the Executing Court that if the bank account had not been supplied to the JDs, then their counsel could have disclosed this fact before the Tribunal on 28.03.2017, but no such plea was taken by the counsel for the JDs before the Tribunal on 28.03.2017 that JDs could not deposit the amount of

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compensation because the bank account number of the claimant was not supplied to them. The counsel for JDs requested for an adjournment for filing the objections and therefore, the case was adjourned to 25.04.2017 for filing objections. No one appeared on behalf of the JDs on 25.04.2017 and they were proceeded against exparte.

7. The objections filed by JDs have been dismissed by the Court concerned with the observations, that in the facts and circumstances of the case, it may be presumed that the bank account number was duly intimated to the JDs and their counsel by the claimant, but the JDs did not deposit the amount of compensation in the account of the claimant in compliance of award dated 11.11.2016.

8. The Executing Court has also rightly held that the petitioner is entitled to recover the amount of compensation i.e. Rs.14,57,744/- alongwith interest @ 7.5 % per annum from the date of filing of claim petition i.e. 23.11.2015, till date of award i.e. 11.11.2016 and @ 9% per annum, with yearly rests, from the date of award i.e. 11.11.2016 till realization.

9. The cheque of Rs.8,00,000/- which was presented in the Office of Tehsildar, Ferozepur Jhirka, on account of Zaffar Trading Company, could not be used for making payment of compensation as name of the payee was left blank. Thus, Teshildar, Ferozepur Jhirka has been rightly directed to recover the amount of compensation i.e. Rs.14,57,744/- alongwith interest @ 7.5 % per annum from the date of filing of claim petition i.e. 23.11.2015, till date of award i.e. 11.11.2016 and @ 9% per

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annum, with yearly rests, from the date of award i.e. 11.11.2016 till realization from the revision petitioner by selling his land, which had already been attached and to recover the amount of compensation as arrear of land revenue and then to deposit the amount before the Tribunal.

10. There is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

11. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

06.05.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No